THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P. No. 23420 of 1995

Dated: 14.11.2006

Between:

M. Laxmi & others

… Petitioners

AND

Electronics Corporation of India Ltd.,
Rep., by its Chairman & M.D.,
E.C.I.L. Post, Hyderabad & another.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P. No. 23420 of 1995

ORDER:-

The petitioners who are eleven in number seek relief of their absorption and extension of all benefits including payment of their regular salaries and all other attendant and consequential benefits by the 1st respondent.

In the affidavit filed in support of the writ petition, the petitioners claim that they are working in the transport section of the 1st respondent – Corporation as Ayas to take care of the children brought from various places to the school by school buses run by Atomic Energy Department. It is also mentioned in the affidavit that they have been working for the last 11 years and that their salaries were being paid through some societies in order to mask the real state of affairs. The petitioners allege that in order to avoid their appointment on permanent basis and to deny them the benefits under the industrial law, the 1st respondent resorted to unfair labour practice of introducing intermediary. The petitioners therefore seek the reliefs as mentioned hereinabove.

The 1st respondent filed a counter-affidavit in which it has denied employing the petitioners at any time. They have contended that there

is no master and servant relationship between the 1st respondent and the petitioners and that the petitioners were neither engaged in connection with nor for the business of the company. It is stated in the counter-affidavit that there was no obligation for the 1st respondent to provide transport facility to the children of its employees for taking them to school and that at the request of the ECIL Employees Union, the management of the 1st respondent had initially agreed to ply one bus from Dr.A.S.Rao Nagar to the Atomic Energy Central School and back inorder to enable their children to commute between the school and their residence. The cost of plying the buses was being proportionately recovered from the employees, whose children are provided with the transport facility. The transport facility is also extended to the children of the employees of NFC at their request and in the process the number of busses was increased from 1 to 11, out of which 5 buses were hired from APSRTC. The petitioners specifically stated that they are not aware as to why the 2nd respondent society has engaged the petitioners and that petitioner Nos.2, 5 and 9 are the wives of the drivers of the company and petitioner No.6 is the daughter of another driver of the 1st respondent company. Thus, the 1st respondent has denied engagement of the petitioners at any point of time and any control over the petitioners by them.

No reply affidavit is filed by the petitioners to deny any of the averments contained in the counter-affidavit.

Heard Smt. Geetanjali representing Dr.P.B.Vijaya Kumar, learned counsel for the petitioners. Learned counsel for the 1st respondent is not present.

Having heard the learned counsel for the petitioners and perused the record, I am of the view that the petitioners have not made out a case for granting any relief. Though the petitioners claim that the 2nd respondent is a name lender and that he is merely an ostensible employer, while the 1st respondent is the real employer, no evidence whatsoever is produced in support of this contention. The only material filed by the petitioner is an alleged letter of a transport manager of the 1st respondent company. This letter is a typewritten without containing any signature or date. This letter is purported to have been written by the transport manager intended to be kept in the notice board for general information. It is mentioned in the said purported letter that on 24.07.1999 Bus No.5 in course of dropping the second shift children collided with ECIL bus resulting in damage to glasses and body of the bus and that therefore school Bus No.5 will not go to the stage of Moula-Ali bus stop and children will have to board the bus at Unani cross roads for Dr.A.S.Rao Nagar school.

As already mentioned, this purported notice is unauthenticated without containing any one signature. In any event, this letter does not advance the case of the petitioners as this does not constitute a piece of evidence in support of their claim that they were employed by the 1st respondent company. The statement contained at page 2 of the material papers showing the names of the petitioners only a self serving document also does not help the petitioners in establishing their claim that they are directly employed by the 1st respondent company.

In the absence of any tangible evidence to support the claim of the petitioners that the 1st respondent is their employer, the petitioners

are not entitled to any relief whatever, much less the relief of their absorption in the 1st respondent company.

For the aforementioned reasons, the writ petition has no merit and hence the same is dismissed, but without costs.

_____

C.V. NAGARJUNA REDDY, J

Date: 14.11.2006
ES